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CHANDIGARH ADMINISTRATION  
LABOUR DEPARTMENT

## Notification

The 25th November, 2024

**No.474100-HII(2)-2024/17735.**—In exercise of the Powers conferred by sub-section (i) of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947) read with Government of India, Ministry of Labour & Employment's Notification No. S-11025/21/2003-IR(PL) dated 28.7.2004, the undersigned hereby publish the following award bearing reference No. **5/2019** dated **21.10.2024** delivered by the Presiding Officer, Industrial Tribunal-cum-Labour Court, UT Chandigarh between :

KALIKA PARSHAD, S/O RAMESHWAR PARSHAD, H.NO.A-358, BLOCK 'E', COLONY NO.4, INDUSTRIAL AREA, PHASE - 1, CHANDIGARH.(Workman)

AND

M/S PERFECT FASTENERS, PLOT NO.318, INDUSTRIAL AREA, PHASE - I, CHANDIGARH THROUGH ITS PARTNER/PROPRIETOR. (Management)

## AWARD

1. Kalika Parshad, workman has presented industrial dispute under Section 2A(2) of the Industrial Disputes Act, 1947 (*here-in-after in short called 'ID Act'*).

2. Briefly stated the averments of claim statement are that the workman was appointed by the management as Operator in the month of April, 2000. The workman remained in the uninterrupted employment up to 18.07.2018 when his services were illegally & wrongly terminated by refusing of work. The workman was drawing ₹ 11,000/- per month as wages. On 18.07.2015 the management refused work to workman without assigning any reason and notice. Refusal of work which amounts to termination is retrenchment under Section 2(oo) of the ID Act. The management has also violated Section 25F of the ID Act. No charge sheet was issued, no inquiry was held and the workman was not paid retrenchment compensation at the time of termination. The junior persons were retained in service when the service of the workman was terminated.

The management has thus violated Section 25G of the ID Act. The violation of the same makes the termination illegal. The workman lodged a complaint with the Labour Inspector U.T. Chandigarh. The management refused to take the workman on duty before the Labour Inspector. The workman then served upon the management a demand notice dated 01.05.2018. The management did not reply the demand notice and also did not take the workman back on duty. The Conciliation Officer. U.T. Chandigarh was requested for his

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intervention. The management also refuses to take the workman back on duty before the Conciliation Officer. The management did not appear before the Conciliation Officer on last date of hearing. Action of the management in terminating the services of the workman is illegal, wrong, motivated, against the principle of natural justice and unfair labour practice. The workman remained unemployed during the period i.e. from the date of termination to till date. Prayer is made that the workman may be reinstated with continuity of service and full back wages.

3. On notice, the management appeared through its authorized representative and contested the claim of the workman by filing written statement on 12.07.2019. On 03.11.2023 the management moved the application seeking amendment in written statement, which was allowed vide order dated 06.03.2024.

4. In the amended written statement preliminary objections are raised on the ground that the present complaint (*hereinafter 'claim statement'*) filed by the workman is not maintainable and the same has been filed by the workman with ulterior and sinister motive just to extract out undue money from the pocket of the answering management. The complainant (*hereinafter 'workman'*) is not entitled for any claim after receipt of full & final up to the month of October against his signatures.

5. On merits, it is stated that the workman was serving as Operator w.e.f. the year 2000. The workman was drawing ₹ 9,100/- per month as wages and not drawing ₹ 11,000/- per month. The workman remained in continuous employment under the management up to the month of October, 2017 but he left the job at his own accord and free will after putting his signature in the employment register and thereafter he did not come back to join the duty despite number of telephonic message sent to him to join his duty but each time he responded back that he is no longer interested to serve with the management as he is getting job in some other organisation on higher side. The employer-management never refused nor turned him out from the job in any manner and if he wants to serve the management again he is welcome. At no stage of time any words were uttered by the employer-management. It is admitted that the workman is covered under the ESI. The workman received salary up to the month of October, 2017 and thereafter he did not report for work or joining the duty. No over-time as claimed is due from the side of the employer-management to the workman. Whatever leaves were due, those were granted to the workman whenever he asked to go on leave. Rest of the averments of the claim statement are denied being wrong & false. Prayer is made that claim statement may be dismissed.

6. The workman filed rejoinder to initial written statement, wherein the contents of written statement except the admitted facts are denied as wrong and the averments of the statement of claim are reiterated. No rejoinder / replication was filed to the amended written statement.

7. From the pleadings of the parties, following issues were framed vide order dated 17.09.2019 :-

1. Whether the services of the workman were terminated illegally by the management, if so, to what effect and to what relief he is entitled to, if any ? OPW
2. Relief.

8. In evidence, the workman Kalika Parshad examined himself as AW1. On 04.07.2023, Learned Representative for the workman closed the evidence in affirmative.

9. On the other hand, the management examined MW1 Krishan Kumar - Proprietor, who tendered into evidence his Exhibit 'MW1/A' along with copy of register of employees for the month of July, 2017 to October, 2017 vide Exhibit 'M1' to Exhibit 'M4'. On 04.09.2024 Learned Representative for the management closed oral evidence. On 12.09.2024, Learned Representative for the management tendered into evidence the office copy of written statement dated Nil filed by employer - M/s Perfect Fasteners before the Court of Labour Inspector, U.T. Chandigarh in the matter of complaint titled Kalika Parshad Versus M/s Perfect Fasteners vide Mark 'MX'. On 16.10.2024, Learned Representative for the management closed documentary evidence.

10. I have heard the arguments of Learned Representatives for the parties and perused the judicial file. My issue-wise finding are as below :-

**Issue No. 1 :**

11. Onus to prove this issue is on the workman.

12. Under this issue workman Kalika Parshad examined himself as AW1 and vide his affidavit Exhibit 'AW1/A' deposed the averments of claim statement in toto, which are not reproduced here for sake of brevity.

13. On the other hand, the management examined MW1 Krishan Kumar - Proprietor, who tendered his affidavit Exhibit 'MW1/A' wherein he deposed that he had filed amendment written statement which was allowed vide order dated 06.03.2024 passed by this Tribunal and he re-affirmed the contents of that written statement. He further deposed that the workman was working with him from a long period and left the job at his own on 17.10.2017 without informing to him. The workman received the salary up to October, 2017 after signing the register of employees. Copies of the register of the employees for the month of July, 2017, August, 2017, September, 2017 and October, 2017 are already exhibited as Exhibit 'M1' to Exhibit 'M4' in the cross-examination of the workman. The workman was drawing monthly salary in the sum of ₹ 9,100/- per month and not ₹ 11,000/- per month, as alleged. The workman was never removed from the service on 17.10.2017, as alleged. He (deponent) had also filed the reply before the Assistant Labour Commissioner, wherein the workman was offered to join his duty but he did not join. The workman is gainfully employed somewhere else and now it has come to knowledge that he is running a grocery shop in his house at village Maloya. The workman is not entitled for any salary and any kind of amount, as claimed.

14. From the oral as well as documentary evidence adduced by the parties it comes out that relationship of employee-employer between the workman-management is not disputed. It is also not disputed that workman was doing the job of Operator. MW1 in his cross-examination voluntarily stated that workman was operating the rolling machine. Nature of duties performed by the workman were manual. Thus, workman falls within the definition of 'workman' as defined under Section 2(s) of the ID Act.

15. In the demand notice dated 01.05.2018 the workman pleaded that he remained in continuous employment of the management from April, 2000 to 18.10.2017. On 18.10.2017 he was refused work without assigning any reason. The workman in the claim statement and on examining himself as AW1 pleaded that he joined the management in April, 2000 and remained in uninterrupted service of management up to 18.07.2018. His services were terminated by refusal of work without assigning any reason and without notice on 18.07.2015. He raised demand notice dated 01.05.2018. All the aforesaid pleas taken by the workman are self-contradictory. In case workman remained in service up to 18.07.2018, then how it is possible that he was refused work by verbal order on 18.07.2015. If it is believed that he was removed from service on 18.07.2018 then how he raised demand notice on prior date i.e. on 01.05.2018. Likewise, if services were terminated on 18.07.2015, then why there has been delay of about 3 years in raising the demand notice on 01.05.2018. All these discrepancies are met by the management in its written statement where in para 1 of reply, on merits, it is admitted to the extent that workman was serving as Operator w.e.f. year 2000 and left the job in October, 2017 of its own. Meaning thereby the management has admitted the continuous service of the workman w.e.f. the year 2000 up to October, 2017. MW1 in his cross-examination admitted as correct that the workman was employed in the management from year 2000. The workman in his cross-examination voluntarily stated that he was removed from service on 17.10.2017. This version of the workman strengthens the management's plea that the workman remained in employment of the management from the year 2000 up to 17.10.2017. Workman / AW1 in his cross-examination stated that he has received the salary of September, 2017 and October, 2017. The workman denied that he received salary of September and October, 2017 after putting his signature on register of employees of the said period. The workman is proved to have deliberately denied his signatures against the receipt of wages of September and October, 2017 in the register of employees, because the management has placed on record the copies of the register of employees of the relevant period i.e. July, 2017 to October, 2017



vide Exhibit 'M1' to Exhibit 'M4' respectively. All these registers bear the signature of Kalika Parshad which had been put across on the revenue stamp in token of receipt of monthly wages. The signature appended on the register for the period from July, 2017 to October, 2017 were put to Workman / AW1 in his cross-examination. AW1 in his cross-examination stated that he has seen the copy of register of employee for the month of July, 2017 / Exhibit 'M1', August, 2017 / Exhibit 'M2', September, 2017 / Exhibit 'M3', October, 2017 / Exhibit 'M4' which bears his signatures in the column of employee. AW1 admitted that he received salary for the month of July, 2017 and August, 2017 and denied receipt of salary of September, 2017 and October, 2017. To my opinion, the workman's denial of receipt of salary of September and October, 2019 is deliberate in view of the fact that he has admitted his signatures on the employee register for the month of August, 2017 to October, 2017 in Exhibit 'M1' to Exhibit 'M4' respectively. As per the contents of Exhibit 'M1' to Exhibit 'M4', the workman has put his signatures across the revenue stamp in the column of 'signature of employee' in token of receipt of monthly salary only. Further as per the entry of Exhibit 'M1', the workman was paid wages of ₹ 9,100/- for 20 working days of July, 2017. As per the entry Exhibit 'M2' the workman was paid wages of ₹9,100/- for 19 workings days of August, 2017. As per entry of Exhibit 'M3' the workman was paid wages of ₹4,990/- for 17 working days and as per entry of Exhibit 'M4' the workman was paid wages of ₹ 9,100/- for 20 working days. Thus, from Exhibit 'M1' to Exhibit 'M4' it is proved that the workman was paid his due monthly wages up to October, 2017. The last paid monthly salary of workman is proved ₹ 9,100/- and not ₹ 11,000/- as alleged by the workman. As discussed above, the workman / AW1 in his cross-examination voluntarily stated that he was removed from service on 17.10.2017, which prove that the workman did not perform duty w.e.f. 17.10.2017 onwards. Moreover, in the demand notice, workman himself pleaded that he remained continuous employment from April, 2000 to 18.10.2017. The management's plea that in the proceedings before the Labour Inspector the workman was offered to join back duty in written reply filed by the management cannot be disbelieved as management in order to prove the same summoned the concerned official from Office of the Assistant Labour Commissioner, Sector 30, U.T. Chandigarh by filing an application dated 18.07.2023 to produce the record file of IDR No.5/2019, Memo No.3492 dated 31.07.2018 of demand notice served by Kalika Parshad to the management of Perfect Fasteners to prove the fact that written statement was filed by the management showing willingness to keep the workman on duty but the workman did not come. In pursuance of the summons issued by this Court vide order dated 18.07.2023, MW Sukhjeet Singh, Clerk of Assistant Labour Commissioner, U.T. Chandigarh appeared along with the summon record. Then Learned Representative for the management pointed out that he has mentioned the incorrect particulars of the record sought to be summoned. Thus, correct particulars i.e. Memo No.854 dated 17.11.2017 were supplied to the witness to produce the same on next date. MW Sukhjeet Singh sought repeated adjournments to trace the record of Memo No.854 dated 17.11.2017. Finally, on 04.10.2023 MW Sukhjeet Singh made a statement that record of Memo No.854 dated 17.11.2017 is not traceable. In order to show that the management from the very beginning has willing to take back workman on duty, the management produced record i.e. copy of written statement vide Mark 'MX' filed on behalf of M/s Perfect Fasteners through its Proprietor to the complaint filed by the workman before Labour Inspector, U.T. Chandigarh. In para 10 of Mark 'MX', the management has offered the workman to come back to join his duty. In the present case, the workman / AW1 when put to cross-examination stated that his Representative did not inform him about the contents of the written statement filed by the management in the proceedings before Assistant Labour Commissioner. He cannot read English language, therefore, he is not aware of the contents of the written statement filed by the management in the proceedings before the Assistant Labour Commissioner. The aforesaid version of AW1 / workman would suggest that he has not specified denied the offer extended by the management to him to rejoin, at the initial stage but he denied the same for want of knowledge. The fact which is not specifically denied is deemed to be admitted.

16. In view of the fact & circumstances above, it is duly established that since the very beginning of filing of complaint by the workman, the management was willing and offered to take back the workman on duty and it is the workman who did not join duty. In para 10 of the amended written statement filed in the present case, the management offered that in case the workman wants to come back to join his duties, the management has got no objection.

17. In view of the discussion made above and the offer given by the management in para 10 of the amended written statement, the management is directed to allow the workman to join the duty w.e.f. 1st November, 2024 on terms not less favourable than those that prevailed at the time of the cessation of his employment. The management shall ensure that all necessary formalities, documentation and arrangements are complete to facilitate the seamless return of the workman to his respective duty by the abovementioned date. In the event of non-compliance of this order by the management on 01.11.2024, the management shall be liable for the following consequences :-

- a) A penalty of ₹ 350 per day for each day of non-compliance, payable to the workman.
- b) The workman shall be liable to receive full wages for November 1, 2024 until such time, that rejoining is effectively carried out.
- c) Any further appropriate legal action may be initiated against the management for willful disobedience of this order.
- d) The management shall bear the cost of these proceedings.

On rejoining the workman shall be entitled to continuity of service but no pay for no work' during the intervening period w.e.f. 18.10.2017 to 31st October, 2024.

18. Accordingly, this issue is decided in favour of the workman and against the management.

**Relief :**

19. In the view of foregoing finding on the issue above, this industrial dispute is allowed to the extent that the management is directed to allow the workman to join the duty w.e.f. 1st November, 2024 on terms not less favourable than those that prevailed at the time of the cessation of his employment. The management shall ensure that all necessary formalities, documentation and arrangements are complete to facilitate the seamless return of the workman to his respective duty by the abovementioned date. In the event of non-compliance of this order by the management on 01.11.2024, the management shall be liable for the following consequences :-

- a) A penalty of ₹ 350 per day for each day of non-compliance, payable to the workman.
- b) The workman shall be liable to receive full wages for November 1, 2024 until such time, that rejoining is effectively carried out.
- c) Any further appropriate legal action may be initiated against the management for willful disobedience of this order.

On rejoining the workman shall be entitled to continuity of service but no pay for no work' during the intervening period w.e.f. 18.10.2017 to 31st October, 2024. Appropriate Government be informed. Copy of this Award be also sent to Learned District Judge, Chandigarh in view of Sub-section 10 of Section 11 of the Industrial Disputes (Amendment) Act, 2010 for onward transmission of the same to concerned Civil Court. File be consigned to the record room.

(Sd.) . . . ,

Dated : 21.01.2024

(JAGDEEP KAUR VIRK),  
PRESIDING OFFICER,  
Industrial Tribunal & Labour Court,  
Union Territory, Chandigarh.  
UID No. PB0152

Secretary Labour,  
Chandigarh Administration.

**CHANGE OF NAME**

I, Ram Chander S/o Baij Nath R/o 363, Shastri Nagar, Manimajra, Chandigarh, have changed my name from Ram Chandan to Ram Chander.

[1754-1]

I, Lovely S/o Sadhu Ram R/o # 228, Mauli Jagran, Chandigarh, have changed my name to Lovely Kumar Bansal.

[1755-1]

I, Sushma W/o Lovely Kumar Bansal # 228, Mauli Jagran, Chandigarh, have changed my name to Sushma Rani.

[1756-1]

I, Parmod Kumar S/o Sh. Ram Ajor R/o House No. 1573/1, Sector 30-B, Chandigarh, have changed my minor son's name from Vihaan to Vihaan Rai.

[1757-1]

I, Jasbir Kaur W/o Pritpal Singh Brar # 3127, Sector 39-D, Chandigarh, have changed my name to Jasbir Kaur Brar.

[1758-1]

I, Pradeep Kumar S/o Sh. Bishamber Singh R/o House No. 4712/3, Sector 38 West, Chandigarh, have changed my minor daughter name from Manyata to Pihoo.

[1759-1]

I, KM Shobhavati *alias* Shobha Devi W/o Mahender Kumar # 450, Sector-52, Kajheri, Chandigarh, have changed my name to Shobhavati.

[1760-1]

I, Radha W/o Sanjeev Kumar R/o House No. 314, Village Maloya, Chandigarh, have changed my name from Radha to Anuradha.

[1761-1]

I, Saroj Bajaj W/o Late Sh. K.K. Bajaj R/o House No. 3355/2, Sector 45-D, Chandigarh, have changed my name from Saroj Bajaj to Saroj Chhabra.

[1762-1]

I, Makhan Khan S/o Sh. Jaspal Khan, R/o # 2051/B, Sector 41-C, Chandigarh, have changed my name to Makhan Singh.

[1763-1]

I, Rajesh Verma S/o Bhai Lal # 1106, Kishangarh, Chandigarh, have changed my name to Rajesh Saroj.

[1764-1]

I, Pappu S/o Bhoop Singh # 818, Indira Colony, Manimajra, Chandigarh, have changed the name of my minor daughter from Heena to Ragini.

[1765-1]

I, Jai Parkash S/o Jagdish Mishra R/o H. No. 244, Milk Colony, Dhanas, Chandigarh, changed my name to Jai Prakash Mishra.

[1766-1]

I, Puran Lal S/o Hari Ram R/o # 702, PEC Campus, Sector-12, Chandigarh, My name in my Pan card is Pooran Chander and father's name is Harish Parshad wrongly entered. My correct name is Puran Lal and father's name is Hari Ram. Please correct in my Pan card. In future known me this name.

[1767-1]

I, Poonam W/o Rajesh Mittal R/o House No C-147, Sector 14, PU Chandigarh, have changed my name from Poonam to Poonam Mittal.

[1768-1]

I, Amita Shyam Sunder W/o Late Shri Shyam Sunder Sharma, R/o H. No. 1814, Sector 22-B, Chandigarh, have changed my name from Amita Shyam Sunder to Amita Sharma.

[1769-1]

I, Bhoomika D/o Rajesh Mittal R/o H. No. C-147, Sector-14, PU Chandigarh, have changed my name from Bhoomika to Bhoomika Mittal.

[1770-1]

I, Neha D/o Sanjeev Giri # 587, Kachi Colony, Dhanas, Chandigarh, have changed my name from Neha to Neha Goswami.

[1771-1]

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